

1 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

2 Department for Environmental Protection

3 Division of Water

4 (New Administrative Regulation)

5 401 KAR 5:011E. Repeal of 401 KAR 5:009.

6 RELATES TO: KRS 224.10-100, 224.70, 224.73

7 STATUTORY AUTHORITY: KRS 224.10-100, 224.70-100, 224.70-110

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 authorizes the
9 Natural Resources and Environmental Protection Cabinet to issue, continue in effect, revoke,
10 modify, suspend or deny under such conditions as the cabinet may prescribe permits to discharge
11 into any waters of the Commonwealth. This administrative regulation repeals 401 KAR 5:009
12 because it conflicts with an emergency administrative regulation for concentrated animal feeding
13 operations.

14 Section 1. Repeal. 401 KAR 5:009 is hereby repealed.

JAMES E. BICKFORD, Secretary
Natural Resources and Environmental Protection Cabinet

Date

APPROVED AS TO FORM:

BARBARA A. FOSTER, General Counsel
Office of Legal Services
Natural Resources and Environmental Protection Cabinet

Date

PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for March 28, 2000, at the Western Hills High School, 100 Doctors Drive, Frankfort, Kentucky. The public hearing will be held immediately following the Notice of Intent public hearing regarding concentrated animal feeding operations. Individuals who intend to be heard at this hearing shall notify this agency in writing, by March 21, 2000, five (5) workdays prior to the hearing, of their intent to attend.

This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. A transcript of the hearing will be made. If you request a transcript, you will be required to pay for it.

If you do not wish to be heard at the hearing, you may submit written comments on the administrative regulation.

Send written notification of your intent to be heard at the hearing, or your written comments on the administrative regulation, to the contact person listed below. Written comments must be received before adjournment of the hearing.

The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Jack A. Wilson
Director, Division of Water
Department for Environmental Protection
14 Reilly Road
Frankfort, Kentucky, 40601
Telephone: (502) 564-3410
Fax No.: (502) 564-0111

REGULATORY IMPACT ANALYSIS

Administrative Regulation #: 401 KAR 5:011E

Contact person: Jack A. Wilson

(1) Type and number of entities affected:

This administrative regulation applies to a new swine feeding operation. A swine feeding operation is an operation that confines 1,000 swine units or more and is not a concentrated animal feeding operation. There have been no applications for permits or permits issued under 401 KAR 5:009.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received.

Since this is an emergency regulation, there have been no public comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received.

Since this is an emergency regulation, there have been no public comments received.

(c) To the extent available from the public comments received, compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation:

Since this is an emergency regulation, there have been no public comments received.

2. Second and subsequent years:

Since this is an emergency regulation, there have been no public comments received.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year:

The Cabinet can not estimate the costs or savings since there have been no permit applications or permits issued under 401 KAR 5:009.

2. Continuing costs or savings:

The Cabinet can not estimate costs since there were no permit applications or permits issued under 401 KAR 5:009.

3. Additional factors increasing or decreasing costs:

The Cabinet can not estimate costs since there were no permit applications or permits issued under 401 KAR 5:009.

(b) Reporting and paperwork requirements:

The Cabinet can not estimate costs since there were no permit applications or permits issued under 401 KAR 5:009. There could be potential savings by not issuing permits.

(4) Assessment of anticipated effect on state and local revenues:

There is no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation:

Not applicable.

(6) To the extent available from the public comments received, economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented:

Since this is an emergency regulation, there have been no public comments received.

(b) Kentucky:

Since this is an emergency regulation, there have been no public comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected:

Alternatives include allowing this administrative regulation to expire at the end of the 2000 legislative session or promulgation of a new and significantly different regulation. A conflicting emergency regulation, 401 KAR 5:072E, is being filed regarding concentrated animal feeding operations. Therefore, an emergency regulation to repeal 401 KAR 5:009 must be placed into effect immediately.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky:

None

(b) State whether detrimental effect on environment and public health would result if not implemented:

No detrimental effect will occur.

(c) If detrimental effect would result, explain detrimental effect:

None.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

None.

(a) Necessity of proposed administrative regulation if in conflict:

This administrative regulation is not in conflict with another.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

Not applicable.

(10) Any additional information or comments:

No.

(11) TIERING: Is tiering applied? Yes _____ No X

(Explain why tiering was or was not applied)

Tiering is not necessary because this is a repeal of a regulation.

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation #: 401 KAR 5:011E

Contact person: Jack A. Wilson

- 1. Federal statute or regulation constituting the federal mandate.** There is no federal mandate.
- 2. State compliance standards.** Not applicable.
- 3. Minimum or uniform standards contained in the federal mandate.** There is no federal mandate.
- 4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate?**
There is no federal mandate.
- 5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.** Not Applicable.

FISCAL NOTE ON LOCAL GOVERNMENT

Administrative Regulation #: 401KAR 5:011E

Contact person: Jack A. Wilson

New ☒ Amendment ☐

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government?

Yes ☐ No ☒

2. State what unit, part or division of local government this administrative regulation will affect.

This administrative regulation will not affect any unit, part, or division of local government.

3. State the aspect or service of local government to which this administrative regulation relates.

This administrative regulation does not relate to local government.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no anticipated effect on current revenues.

Expenditures (+/-): There is no anticipated effect on current revenues.

Other Explanation: None.